

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

JASON TUBBS §
v. § CIVIL ACTION NO. 6:17cv496
SHIFT SUPERVISOR, ET AL. §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Plaintiff Jason Tubbs, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights during his confinement in the Gregg County Jail. This Court referred the case to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

The Magistrate Judge ordered Tubbs to file an amended complaint setting out his claims with more factual specificity. A collection order was also entered concerning the filing fee for the lawsuit. These orders were returned to the Court as undeliverable, with the notation that Tubbs had been released from the jail on September 1, 2017. To date, Tubbs has not notified the Court of his present mailing address or current whereabouts, despite the fact that the lawsuit form which he signed specifically stated that it is the plaintiff's responsibility to inform the Court of any change of address and its effective date. The form also notified the plaintiff that failure to file a notice of change of address could result in the dismissal of the case.

After review of the pleadings and record, the Magistrate Judge issued a Report recommending dismissal of the lawsuit without prejudice for failure to prosecute or to obey an order of the Court. A copy of this Report was sent to Tubbs at his last known address, return receipt requested, but no objections have been received; accordingly, he is barred from *de novo* review by

the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law.") It is accordingly

ORDERED that the Report of the Magistrate Judge (docket no. 9) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the above-styled civil action is **DISMISSED** without prejudice for failure to prosecute. Finally, it is

ORDERED that any and all motions which may be pending in this civil action are hereby **DENIED**.

So Ordered and Signed

Dec 7, 2017



Ron Clark, United States District Judge